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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/972,477	11/18/97	HAYNES	J C196.012-006

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QM01/0720

EXAMINER

KAUFMAN, J

ART UNIT PAPER NUMBER

3754

DATE MAILED 97/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/972,477

Applicant(s)  
Haynes

Examiner  
Joseph A. Kaufman

Group Art Unit  
3754



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-40 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-8, 19-26, 31, and 32 is/are allowed.

☒ Claim(s) 9, 12-18, 27-30, 33, and 36-40 is/are rejected.

☒ Claim(s) 10, 11, 34, and 35 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3754

1. Claims 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 27 and 30, line 2, a second fluid control system is claimed although no first control system has been set forth.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9, 12-18, 33, and 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Credle, Jr.

Credle, Jr. shows a nozzle 88; soda inlet 82 connected to a soda source; syrup inlet 84; syrup source 16, 18 or 20; piston 40; piston chamber having soda section 48 and 50 and syrup section 44 and 46; second piston 42; soda drive control 92, 94 comprising first and second inlet and outlet valves; demand regulators 96 and 98 also being first and second syrup inlet and outlet valves; and the on/off control is inherent.

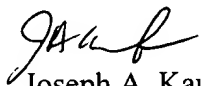
4. Claims 10, 11, 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3754

5. Claims 27-30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.
6. Claims 1-8, 19-26, 31 and 32 are allowed.
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited in the original patent will be made of record in this application.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (703) 308-0266.

Papers relating to this application may be submitted to Group 3700 by facsimile transmission. Papers should be faxed to Group 3700 via the PTO Fax Center located in Crystal Plaza Building 2, Arlington, Virginia. The submission of such papers by facsimile transmission must comply with the Notice published in the Official Gazette, **1096 OG 30** (November 15, 1989). The CP-2 Fax Center number is (703) 305-3588.

jak  
July 16, 1999

  
Joseph A. Kaufman  
Primary Examiner  
Group 3700  
7/16/99